Supreme Court, U. S.
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MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

October Term, 1975

No. 75-339

BUFFALO FORGE COMPANY,

Petitioner,

v.

UNITED STEELWORKERS OF AMERICA, AFL-CIO; I. W. ABEL as International President; MITCHEL F. MAZUCA, Ind. and as District Director; JOHN GRUKA, Ind. and as International Representative of United Steelworkers of America, AFL-CIO;

LOCAL UNION No. 1874 of the United Steelworkers of America, AFL-CIO; VALENTINE F. ZIZZI, Ind. and as President; VALENTINE OLEJNICZAK, Ind. and as Vice President of Local Union No. 1874 of the United Steelworkers of America, AFL-CIO;

LOCAL UNION No. 3732 of the United Steelworkers of America, AFL-CIO; KERMIT HASELEY, Ind. and as President; and ALFRED LIGAMMARI, Ind. and as Vice President of Local Union No. 3732 of the United Steelworkers of America, AFL-CIO;

Respondents.

Respondents' Memorandum Concurring that Certiorari Should be Granted

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The Respondent Unions and their named individual officers (hereinafter "the Union") consents to Petitioner's request that this Court issue a writ of certiorari to review the judgment of the United States Court of Appeals for the Second Circuit entered in this case on May 1, 1975. This case squarely poses the precise issue concerning which there presently exists a major irreconcilable conflict within the Circuits—namely, whether where a union enters into a collective bargaining agreement which contains a no strike

clause and a provision for resolving contract disputes through a grievance-arbitration procedure and that union thereafter engages in a strike solely out of deference to another union's lawful picket line at a place of employment where employees represented by both unions work, a federal district court has authority under § 301(a) of the Labor-Management Relations Act of 1947, 29 U.S.C. § 185(a), to enjoin the strike or is precluded from granting injunctive relief by § 4 of the Norris-LaGuardia Act of 1932, 29 U.S.C. § 104?

The decision of the court below (unofficially reported at 89 LRRM 2303) was that in the above-described circumstances an anti-strike injunction was foreclosed by § 4, Norris-LaGuardia. The Fifth and Sixth Circuits are aligned with the Second. See, *Amstar Corp.* v. *Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO,* 468 F.2d 1372 (1972) and *Plain Dealer Publishing Co.* v. *Cleveland Typographical Union et al.* (—— F.2d ——, 90 LRRM 2110, decided August 15, 1975). In our view the decisions of all three Circuits are consistent with, and indeed compelled by, the rationale of this Court's holdings in *Boys Markets, Inc.* v. *Retail Clerks Union,* 398 U.S. 235 (1970) and *Gateway Coal Company* v. *UMW,* 414 U.S. 368 (1974).[1]

But the fact is that four other Circuits have reached a contrary conclusion. See, *Napa Pittsburgh, Inc.* v. *Automotive Chauffeurs, Parts and Garage Employees, Local Union No. 926,* 502 F.2d 321 (3d Cir. 1974) (en banc), *cert. denied,* 43 U.S.L.W. 3328 (Dec. 9, 1974); *Island Creek Coal Co.* v. *UMWA,* 507 F.2d 650 (3d Cir. 1975);

[1] Petitioner disagrees. It contends (memo pp. 7-12) that the decision of the court below incorrectly construed and applied the governing principles of federal labor law enumerated in those decisions.

Monongahela Power Co. v. *Local No. 2332 International Brotherhood of Electrical Workers, AFL-CIO-CLC,* 484 F.2d 1209 (4th Cir. 1973); *Pilot Freight Carriers Inc.* v. *Local 391 Teamsters,* 497 F.2d 311 (4th Cir. 1974), *cert. denied,* 419 U.S. 869 (1974); *Armco Steel Corp.* v. *UMW,* 505 F.2d 1129 (4th Cir. 1974); *Inland Steel Company* v. *Local Union No. 1545, United Mine Workers of America,* 505 F.2d 293 (7th Cir. 1974); and *Valmac Industries, Inc.* v. *Food Handlers Local 425,* —— F.2d ——, 89 LRRM 3073 (8th Cir. July 29, 1975).

The foregoing attests not only to the existence of a conflict concerning an important substantive issue in the administration of our federal labor policy but also to the frequency with which this precise problem presently is recurring.

Finally, while it is our understanding that a petition for a writ of certiorari was recently filed in *UMW* v. *Island Creek Coal Co.* (No. 74-1573), we believe that the instant case poses most squarely the legal issue which has given rise to the conflict documented above and, therefore, constitutes the best vehicle for resolving that issue.

CONCLUSION

For the foregoing reasons, Respondents join with Petitioner in requesting that the instant case be reviewed by this Court .

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Respectfully submitted,

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